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June 12, 2017

**Via ECF**

Hon. Andrew L. Carter, U.S.D.J., S.D.N.Y.

**Re: *Donoghue v. Mariano*, No. 1:16-cv-07905-ALC—Letter Motion to Reinstate Action**

Your Honor:

I am one of Plaintiff's counsel in this action. I refer to this Court's June 5, 2017 order (Dkt. No. 35) granting the June 2, 2017 letter motion previously filed by my co-counsel David Lopez, requesting an extension of the deadline for Plaintiff to reinstate this action until today. As a reminder, the extension was requested in view of the June 7, 2017 deadline for Defendants to make payments required under the settlement agreement reached in compromise of the Section 16(b) claims asserted in this case.

Unfortunately, I now write to make that request, as Plaintiff was informed today that Defendants have not yet made, and do not contemplate making, the required settlement payments today, notwithstanding the automatic case-closing deadline. Defendant's counsel informed Plaintiff that he expects "the wire will hit tomorrow." Defendants have known about the settlement payment and reinstatement deadlines for weeks, and there is no possible excuse or justification for delaying payment by 24 hours other than to prejudice Plaintiff's rights to enforce the settlement or pursue the underlying 16(b) claims asserted in this case.

I respectfully request that the Court reinstate this action for the limited purpose of enforcing the settlement agreement that the parties negotiated and executed in good faith, all represented by competent counsel. To that end, I append the executed settlement agreement dated May 12, 2017, and refer the Court to Paragraph 10, in which the parties expressly consent to the jurisdiction of New York state or federal courts (including this Court) to resolve any dispute concerning the agreement (including its enforcement). For the Court's reference, I also include subsequent correspondence with Defendant's counsel acknowledging the payment deadline June 7, 2017, along with correspondence received earlier today stating Defendant's intention to allow the Court's reinstatement deadline to expire.

In the alternative, or to the extent the Court finds the settlement agreement unenforceable for any reason, Plaintiff respectfully requests that the action be reinstated for all purposes necessary to adjudicate the underlying merits of Plaintiff's 16(b) claims.

Respectfully submitted,

*s/ Miriam Tauber*

Miriam Tauber  
*Attorney for Plaintiff*  
*Deborah Donoghue*